

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

RLI INSURANCE COMPANY,)	
)	
Plaintiff,)	
)	
)	
vs.)	CASE NO. 3:04-0556
)	JUDGE TRAUGER/KNOWLES
)	
)	
CYCLONE, INC. and TYRONE)	
TACKETT,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

This matter is before the Court following an Evidentiary Hearing concerning the issue of damages, after Judge Trauger granted Plaintiff's Motion for Default. Docket No. 7.

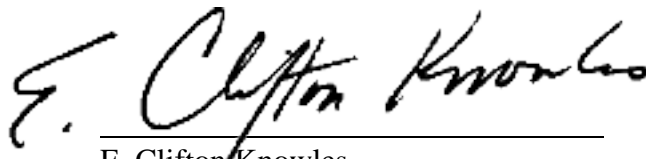
At the hearing, Plaintiff proved gross damages of \$408,664.21. Plaintiff admitted, however, that Defendants were entitled to a credit of \$38,160.05. Therefore, Plaintiff proved net damages in the amount of \$370,504.16.

Subsequently, Plaintiff's counsel submitted an Affidavit (Docket No. 11) and a Supplemental Affidavit (Docket No. 12) concerning the issue of pre-judgment interest. In the Supplemental Affidavit, Plaintiff's counsel noted that Plaintiff had collected additional monies from Evanston Insurance Company, the liability insurance carrier for one of Defendants. In that Supplemental Affidavit, Plaintiff's counsel states that the principal balance owing to Plaintiffs is \$367,226.09.

The Supplemental Affidavit of Plaintiff's counsel also establishes pre-judgment interest, at the rate of 10% per annum, as of February 8, 2006, to be \$147,658.75. Interest continues to accrue at the rate of \$100.61 per day.

For the foregoing reasons, the undersigned recommends that a judgment be entered in favor of Plaintiff against Defendants in the amount of \$514,884.84 (\$147,658.75 interest plus \$367,226.09 principal), plus an amount of \$100.61 per day beginning February 9, 2006, and concluding the date the judgment is entered.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from receipt of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any response to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed. 2d 435 (1985), *reh'g denied*, 474 U.S. 1111 (1986).



E. Clifton Knowles
United States Magistrate Judge